

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CHARLES L. BOBO,

Plaintiff,

v.

COUNTY OF FRESNO DEPENDENCY
COURT,

Defendant.

Case No. C13-783-JCC

REPORT AND RECOMMENDATION

Plaintiff Charles L. Bobo has filed an application for leave to proceed *in forma pauperis* (“IFP”), Dkt. 1, along with a proposed civil complaint alleging that defendant County of Fresno Dependency Court improperly conducted a juvenile dependency proceeding involving his daughter. Dkt. 1-1 at 2-3. Plaintiff asks the Court to grant him custody of his daughter. *Id.* at 5.

As a threshold matter, the Court notes that Mr. Bobo has previously filed several complaints nearly identical to this one. *See e.g., Bobo v. County of Fresno Dependency Court*, Case No. C09-320-RSL; *Bobo v. County of Fresno Dependency Court*, Case No. C11-831-TSZ-BAT. In C09-320-RSL, the Honorable Robert S. Lasnik dismissed plaintiff’s complaint pursuant to the domestic relations exception to federal diversity jurisdiction. Specifically, Judge Lasnik quoted the Ninth Circuit’s statement that

1 “[T]he whole subject of the domestic relations of husband and wife, parent
2 and child, belongs to the laws of the States, and not to the laws of the United
3 States.” *Ohio ex rel. Popovici v. Agler*, 280 U.S. 379, 383, 50 S.Ct. 154, 155,
4 74 L.Ed. 489 (1930) (quoting *In re Burrus*, 136 U.S. 586, 593-94, 10 S.Ct.
5 850, 852-53, 34 L.Ed. 500 (1890)). In keeping with this principle, “federal
6 courts must decline jurisdiction of cases concerning domestic relations when
7 the primary issue concerns the status of parent and child or husband and
8 wife.” *Buechold v. Ortiz*, 401 F.2d 371, 372 (9th Cir.1968); *see also Csibi v.*
9 *Fustos*, 670 F.2d 134, 137-38 (9th Cir.1982).

10 *Thompson v. Thompson*, 798 F.2d 1547, 1558 (9th Cir. 1986).

11 In C11-831-RSZ-BAT, the Honorable Brian A. Tsuchida found that Mr. Bobo’s
12 complaint suffered from the same defect, and therefore failed to state a claim on which relief can
13 be granted. Judge Tsuchida then dismissed the case with prejudice under 28 U.S.C. §
14 1915(e)(2)(B).


15 Here, the plaintiff is once again asking this Court to interfere with a state court’s custody
16 determination. Specifically, he states, “I want the court granted (sic) me custody and 20,000,000
17 million dollars.” Dkt. 1-1 at 4. For the same reasons that Judge Lasnik and Judge Tsuchida
18 previously dismissed plaintiff’s complaints, the Court should decline to exercise jurisdiction over
19 this case.

20 The Court must give a *pro se* plaintiff notice of a complaint’s defects and leave to amend,
21 unless it is absolutely clear that amendment could not cure the defects. *Lucas v. Dep’t of*
22 *Corrections*, 66 F.3d 245, 248 (9th Cir. 1995) (per curiam). Here, plaintiff would have to
23 abandon his claim, and allege an entirely new cause of action in order to proceed with this case.
As a result, the undersigned recommends against granting plaintiff leave to amend because it is
clear that he cannot cure his pleading defects.

Because the proposed complaint, Dkt. 1-1, fails to state a claim on which relief can be
granted, the Court recommends that this case be DISMISSED with prejudice under 28 U.S.C.

1 § 1915(e)(2)(B). In light of this dismissal, the Court recommends DENYING plaintiff's IFP
2 application, Dkt. 1, as MOOT. A proposed order accompanies this Report and
3 Recommendation.

4 DATED this 9th day of May, 2013.

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6 JAMES P. DONOHUE
7 United States Magistrate Judge
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